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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,766

10/19/2004

Peter Clive Bridges

04-870

6029

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08/10/2007

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP

300 S. WACKER DRIVE

32ND FLOOR

CHICAGO, IL 60606

EXAMINER

ALI, SHUMAYA B

ART UNIT

PAPER NUMBER

3771

MAIL DATE

DELIVERY MODE

08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,766

Applicant(s)

BRIDGES ET AL.

Examiner

Shumaya B. Ali

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Application Status

This office action is in response to the remarks filed on 7/11/07. Currently claims 1-7 are pending in the instant application.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **headgear** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Quilter et al. US 2,861,568.

As to **claim 1**, Quilter discloses a respirator assembly comprising: a first sub-assembly (**fig. 2, 15**) adapted to be worn on the head (**see fig.2**) and including a seal (**fig.2, 13**) adapted to seal against the periphery of the user's face when worn (**see col.2, lines 26-36**); and a second sub-assembly (**fig.7, 26,64**) separable (**see 2, lines 65-68**) from the first sub-assembly but selectively co-operable therewith (**see fig.7**), the second sub-assembly comprising a face piece adapted to co-operate with the first sub-assembly to define therewith a facial cavity (**space between the seal 13 and the mask 64, see fig.7, see also “dead space” (reading on “facial cavity”) in col.6, lines 3-6**) bounded by said seal (**see fig.7**), an inlet (**fig.7, 68**) connectable to a source of breathing gas for supply to the user and an outlet (**fig.7, 67**) for the exhaustion of exhaled gas from the user.

As to **claim 2**, Quilter discloses a respirator assembly according to claim 1 wherein the first and second sub-assemblies are completely separable whereby the first sub-assembly can be

worn alone, the second sub-assembly being demountably attachable to the first sub-assembly (see 2, lines 65-68).

As to claim 4, Quilter discloses a respirator assembly according to claim 1 wherein the second sub-assembly is articulated to the first sub-assembly (see fig.7).

As to claim 5, Quilter discloses a respirator assembly according to claim 1 wherein the first sub-assembly comprises headgear in the form of a flexible hood of air-permeable material (hood 1 is constructed from "other fabric", see col.2, lines 35-37, and "other fabric" broadly reads on breathable/air-permeable fabric).

As to claim 6, Quilter discloses a respirator assembly according to claim 1 wherein the second sub-assembly includes an oronasal mask (fig.7, 64) to be disposed within said facial cavity.

As to claim 7, Quilter discloses a respirator assembly according to claim 1 wherein said face piece includes a demountable lens portion (fig.7, 26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quilter et al. US 2,861,568 in view of Tischer et al. US 6,328,031 B1.

As to claim 3, Quilter discloses a respirator assembly according to claim 2 wherein the first sub-assembly comprises headgear (**fig.2, 15**) including a substantially rigid ring (**fig.7, 25**) structure adapted to be juxtaposed to the user's face (**see fig.7**) when the headgear is donned and from which said seal extends to engage around the periphery of the user's face (**see fig.7**), the second sub-assembly being configured to be mounted to said ring structure (**see fig.7, 26 connecting 25**), however, Quilter lacks secured thereto by at least one releasable fastener. However, Quilter teaches that his mask (64) and the hood (15) can be made separable (see col.2, lines 65-68) and it is known in the art that sub-assemblies within the scope of the claimed invention to have releasable fastener. Tischer teaches a face (**fig.3, 58**) and hood (**fig.3, 30**) assembly that can be joined by a releasable fastener (**fig.3, 62**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Quilter in order to add a releasable fastener for the purposes of allowing separable connection between the two sub-assemblies as taught by Tischer.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Warncke et al (4,146,025) pertain to mask and hood assembly.

Notice, reference to Andrews (2,935,985) was applied in the previous rejection, but was not listed in the PTO form 892. Reference is now included in the current PTO form 892.

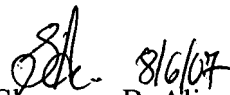
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shumaya B. Ali whose telephone number is 571-272-6088. The examiner can normally be reached on M-W-F 8:30am-5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Shumaya B. Ali
Examiner
Art Unit 3771


JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
8/6/07